

**LAW OFFICES OF JAMES C. DEZAO, P.A.**

322 Route 46 West, Suite 120  
Parsippany, New Jersey 07054  
(973) 808-8900

James C. Dezaq Esq. Attorney ID: 019511985  
Kathy Cehelsky, Esq. Attorney ID: 043151989  
Margaret Meade, Esq. Attorney ID: 020711992  
*Attorney for Bel-Con Construction Services, LLC*

**UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY**

In re:

HOLLISTER CONSTRUCTION  
SERVICES, LLC,<sup>1</sup>

Debtor.

Chapter 11

Case No.: 19-27439

Judge: Michael B. Kaplan

**ORDER ALLOWING BEL-CON PROPERTIES TO REMOVE THEIR  
EQUIPMENT FROM EDISON PROPERTIES PREMISES**

The relief set forth in on the following pages numbered two (2) through (5), is  
hereby **ORDERED**.

---

Michael B. Kaplan, U.S.B.J.

Date: \_\_\_\_\_

Page 2  
Debtors: Hollister Construction Services, LLC  
Case No.: 19-27439  
Caption: Order Allowing Bel-Con Construction Services, LLC to Remove their Equipment from the Edison Properties Site

**MOTION OF BEL-CON CONSTRUCTION SERVICES, INC. FOR ORDER  
PERMITTING ITS RECOVERY OF PROPERTY FROM HOLLISTER  
CONSTRUCTION SERVICES, LLC, CURRENTLY HELD ON EDISON  
PROPERTIES PREMISE**

To the Honorable Judge Michael B. Kaplan, United States Bankruptcy Judge:

COMES NOW, Bel-Con Construction Services, LLC ("Bel-Con"), a party in interest in this Chapter 11 matter and files this Motion requesting that the Court enter an Order that Hollister Construction Services, LLC ("Debtor") has no right to, title to or interest in property specified herein and that such property (two (2) Job site Gang boxes full of power tools; 8--96" Aluminum Scaffold Planks; two (2) Blue Scaffold outriggers with wheels; and four (4) 6' Werner rolling scaffolds; and 2--Rolling drywall carts) ("property") is not a part of the Bankruptcy Estate or Proceeding; and directing that such property be immediately released to Bel-Con.

**RELIEF REQUESTED**

Bel-Con is requesting that the Court hold that the Debtor has no interest in or right to the subject Property; and permit the Debtor to recover the Property from the Premises within one (1) week of this Order.

With certain exceptions, Section 541 of the Bankruptcy Code provides that all property to which a debtor has legal or equitable interest becomes property of the estate upon the commencement of a Chapter 11 matter. 11 U.S.C. 541(a)(1). This includes any interest in property that the estate acquires after commencement of the Chapter 11 matters. 11 U.S.C. 541(a)(7).

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Debtors: Hollister Construction Services, LLC

Case No.: 19-27439

Caption: Order Allowing Bel-Con Construction Services, LLC to Remove their Equipment from the Edison Properties Site

However, section 541 does not by itself create new legal or equitable interests in property; instead, property interests are created and defined by state law.” *Butner v. United States*, 440 U.S. 48, 54-55 (1979)(noting that Congress has generally left the determination of property rights in the assets of a bankrupt’s estate to state law). Congress was clear that section 541(a)(1) of the Bankruptcy Code “is not intended to expand the debtor’s rights against others more than they existed at the commencement of the case.” H.R. Rep. No. 95-595, 95<sup>th</sup> Cong., 1<sup>st</sup> Sess. 367-68 (1977). *See, also, Moody v. Amoco Oil Co.*, 734 F.2d 1200, 1213 (7<sup>th</sup> Cir. 1984)(holding that the “rights a debtor has in property at the commencement of the case continue in bankruptcy – no more, no less”).

Thus, if a debtor holds no legal or equitable interest in property as of the commencement of the matter, such property does not become property of the debtor’s estate under section 541 and the debtor is prohibited from distributing such property to its creditors. *Pearlman v. Reliance Ins. Co.*, 371 U.S. 132, 135-36 (1962)(“The Bankruptcy Act simply does not authorize a [debtor] to distribute other people’s property among a bankrupt’s creditors. . . [S]uch property rights existing before bankruptcy in person other than the bankrupt must be recognized and respected in bankruptcy”).

Courts have interpreted section 541(d) to expressly provide that when a debtor holds only bare legal title in property, such property is not property of the estate. *In re Lenox Healthcare, Inc.*, 343 B.R. 96, 100 (Bankr. D. Del. 2006). When a debtor holds legal title but not equitable interest in property, the debtors must turn such property over to the holders of such property. *See, In re MCZ, Inc.*, 82 B.R. 40, 42 (Bankr. S.D. Tex. 1987)(“Where Debtor merely holds bare legal title to property as agent or bailee for

Page 4

Debtors: Hollister Construction Services, LLC

Case No.: 19-27439

Caption: Order Allowing Bel-Con Construction Services, LLC to Remove their Equipment from the Edison Properties Site

another, Debtor's bare legal title is of no value to the estate, and Debtor should convey the property to its rightful owner"). A debtor who holds proceeds attributable to real property owner by another holds only bare legal title to such property. *See, e.g., In re Columbia Pac. Mortgage, Inc.*, 20 B.R. 259, 262-64 (Bankr. W.D. Wash. 1981)(holder of participation ownership interest brought successful action against bankruptcy trustee for proceeds of a sale of real property because holder was beneficial owner and debtor having only legal title held the proceeds in trust).

Here, the Property sought to be recovered belongs unquestionably to Bel-Con; the Debtor has and never had any property or other interest in it. The site owner, Edison Properties, has refused to provide Bel-Con with access to its Property because the Debtor will not consent to such. The Property is under lock and key that only Bel-Con possesses.

Your Honor requested a formal request for the property be submitted to via letter to Hollister's attorney. See annexed correspondence requesting the property as **Exhibit "A"**. Both Hollister and Edison Properties did not allow Bel-Con to obtain his property from the premises. You Honor thereon requested a Motion for Short Notice to be made for same.

This Motion is emergent because, without its equipment and materials, Bel-Con's ability to work or continue working on other projects is severely undermined if not impossible. Hence, Bel-Con requests a Court Order directing that it be permitted to obtain Property belonging to it and not the Debtor.

**IT IS HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** as set forth herein.

Page 5

Debtors: Hollister Construction Services, LLC

Case No.: 19-27439

Caption: Order Allowing Bel-Con Construction Services, LLC to Remove their Equipment from the Edison Properties Site

2. Debtor has no right, title, or interest to the Property specified above; and that Bel-Con be permitted to retrieve its Property from the Edison Properties premises immediately.
3. Bel-Con be permitted to retrieve two (2) Job site Gang boxes full of power tools; 8--96" Aluminum Scaffold Planks; two (2) Blue Scaffold outriggers with wheels; and four (4) 6' Werner rolling scaffolds; and 2--Rolling drywall carts from the Edison Properties site.

# EXHIBIT A



The Law Offices of  
**James C. DeZao, P.A.**

973.808.8900 | Fax 973.808.8640 | [www.DeZaoLaw.com](http://www.DeZaoLaw.com)

322 US Highway 46 #120 | Parsippany-Troy Hills, NJ 07054

September 16, 2019

**Via Regular Mail and Email**

Mary E. Seymour, Esq.  
Lowenstein Sandler LLP  
1 Lowenstein Drive  
Roseland, NJ 07068

**RE: In re Hollister Construction Services, LLC**  
**CASE NO.: 19-27439**  
**OUR FILE NO.: 206721**

Dear Ms. Seymour:

Please be advised our office represents Bel-Con Construction Services, Inc. in the referenced matter. Bel-Con Construction Services, Inc. was hired as a subcontractor to perform work at the premise located at 110 Edison Place, Newark, NJ.

In accordance with your request, please find a list of equipment left on Edison Properties' site in Newark that belongs to our client:

- 2--Job site Gang boxes full of power tools
- 8--96" Aluminum Scaffold Planks
- 2-- Blue Scaffold outriggers with wheels
- 4-- 6' Werner rolling scaffolds
- 2--Rolling drywall carts

Our client has indicated that his equipment has a chain around it and is locked, he is the only one with a key. Our client is in need of the equipment as he uses it for other projects. Kindly provide our office with a convenient time to for our client to pick up his equipment.

If you have any questions or concerns, please do not hesitate to contact Jessica Reiser at [jreiser@dezaolaw.com](mailto:jreiser@dezaolaw.com) or (973) 852-1675.

Very truly yours,

*/s/ James C. DeZao*

James C. DeZao

JCD/jr

With us, it's personal.

**From:** [Seymour, Mary E.](#)  
**To:** [Jessica Reiser](#)  
**Cc:** [Seymour, Mary E.](#)  
**Subject:** RE: In re Hollister Construction Services LLC  
**Date:** Wednesday, September 18, 2019 8:17:57 PM

Ms. Reiser,

We received the letter you sent seeking access to Bel-Con's equipment at the Edison Properties project in Newark. We've shared the letter with the Debtor and are waiting to hear back from them on this issue. Please note that your client may have to obtain the project owner's permission to access the site as well as to remove any equipment on the site. We will circle back to you after we get more information from the Debtor.

**Mary E. Seymour**  
Partner  
Lowenstein Sandler LLP

**T:** 973.597.2376  
**M:** 973.207.6574  
**F:** 973.597.2377

[Bio](#)

**From:** Jessica Reiser <[jreiser@dezaolaw.com](mailto:jreiser@dezaolaw.com)>  
**Sent:** Wednesday, September 18, 2019 4:38 PM  
**To:** Seymour, Mary E. <[mseymour@lowenstein.com](mailto:mseymour@lowenstein.com)>  
**Subject:** RE: In re Hollister Construction Services LLC  
**Importance:** High

Ms. Seymour:

I have not heard back from you regarding our client's, Bel-Con, property. Kindly advise when he will be able to pick up his equipment as he uses it in his daily work and not allowing our client to pick up his equipment is hindering his work.

If you have any questions, please do not hesitate to contact me.

Thank you,

**Jessica Reiser, Paralegal**  
*Law Offices of James C. DeZao, P.A.*  
322 Route 46 West, Suite 120  
Parsippany, NJ 07054  
Phone: (973) 852-1675  
Fax: (973) 308-8933

[jreiser@dezaolaw.com](mailto:jreiser@dezaolaw.com)

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**From:** Jessica Reiser

**Sent:** Monday, September 16, 2019 3:55 PM

**To:** 'mseymour@lowenstein.com' <[mseymour@lowenstein.com](mailto:mseymour@lowenstein.com)>

**Subject:** In re Hollister Construction Services LLC

Ms. Seymour:

Please see attached.

If you have any questions, please do not hesitate to contact me.

Thank you,

**Jessica Reiser, Paralegal**

*Law Offices of James C. DeZao, P.A.*

322 Route 46 West, Suite 120

Parsippany, NJ 07054

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**From:** Schwartz, Joseph  
**To:** Jessica Reiser  
**Cc:** Reem Ishak; Pasquale Suriano; Victoria Morrison; bel3con@gmail.com  
**Subject:** RE: Ironside Project  
**Date:** Thursday, September 19, 2019 5:20:23 PM  
**Attachments:** image003.png

Jessica,

Again, I have no authority to give you permission to do anything w/o Hollister's consent or a Bankruptcy Court order.

Further, your client cannot file a lien post-petition, as this would violate the automatic stay set forth in 11 U.S.C. section 362(a). I strongly urge you to review the applicable law on this subject.

Joe



Joseph L. Schwartz | Chair, Bankruptcy & Reorganization  
Riker Danzig Scherer Hyland & Perretti LLP  
Headquarters Plaza | One Speedwell Avenue | Morristown, NJ 07962-1981  
t: 973.451.8506 | f: 973.451.8727 | [JSCHWARTZ@RIKER.com](mailto:JSCHWARTZ@RIKER.com) | [www.riker.com](http://www.riker.com)

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---

**From:** Jessica Reiser [mailto:[jreiser@dezaolaw.com](mailto:jreiser@dezaolaw.com)]  
**Sent:** Thursday, September 19, 2019 5:15 PM  
**To:** Schwartz, Joseph  
**Cc:** Reem Ishak; Pasquale Suriano; Victoria Morrison; [bel3con@gmail.com](mailto:bel3con@gmail.com)  
**Subject:** Re: Ironside Project

Our liens are being hand delivered to the registers office tomorrow morning. You will receive a copy of same. Additionally, we are talking about bel-con's equipment, not the liens at this point. Bel-cons owner chained and locked his property on Edison properties premises. He is the only one with a key. Preventing him from obtaining his own equipment is unjustifiable. He needs the equipment to conduct his business. This needs to be addressed and remedied immediately. Unless the lock is broken bel-con has locked his equipment and most of it all has bel-cons tags on it. It is not Hollister property. Kindly advise when he will be able to pick up his equipment. Thank you.

Sent from my iPhone

On Sep 19, 2019, at 5:04 PM, Schwartz, Joseph <JSCHWARTZ@riker.com> wrote:

I just reached out to Mary Seymour, who responded as follows:

Joe,

We're not consenting to anything yet as Hollister is still reviewing and reconciling its numbers as to amounts owed, if any, to this sub and trying to verify if this sub has filed a lien against the property. If your client has any information about a lien filing by this sub and/or a copy of the lien, we'd appreciate getting a copy.

Thanks.

**Mary E. Seymour**  
Partner  
Lowenstein Sandler LLP

<image001.png>

Joseph L. Schwartz | Chair, Bankruptcy & Reorganization  
Riker Danzig Scherer Hyland & Perretti LLP  
Headquarters Plaza | One Speedwell Avenue | Morristown, NJ 07962-1981  
t: 973.451.8506 | f: 973.451.8727 | [JSCHWARTZ@RIKER.com](mailto:JSCHWARTZ@RIKER.com) | [www.riker.com](http://www.riker.com)

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**From:** Jessica Reiser [<mailto:jreiser@dezaolaw.com>]  
**Sent:** Thursday, September 19, 2019 4:37 PM  
**To:** Schwartz, Joseph; Reem Ishak; 'Pasquale Suriano'  
**Cc:** Victoria Morrison; '[bel3con@gmail.com](mailto:bel3con@gmail.com)'  
**Subject:** RE: Ironside Project

Yes, I did. She stated the following:

Jessica

Our firm represents Hollister Construction, the Debtor. Our clients at Hollister tell us that the owner of the project locked them out of the premises, so it is unlikely that Hollister can gain access to the equipment your client is trying to retrieve.

**Mary E. Seymour**  
Partner  
Lowenstein Sandler LLP  
T: 973.597.2376  
M: 973.207.6574  
F: 973.597.2377

Ms. Reiser,

We received the letter you sent seeking access to Bel-Con's equipment at the Edison Properties project in Newark. We've shared the letter with the Debtor and are waiting to hear back from them on this issue. Please note that your client may have to obtain the project owner's permission to access the site as well as to remove any equipment on the site. We will circle back to you after we get more information from the Debtor.

**Mary E. Seymour**  
Partner  
Lowenstein Sandler LLP

If you have any questions, please do not hesitate to contact me.

Thank you,

**Jessica Reiser, Paralegal**  
*Law Offices of James C. DeZao, P.A.*  
322 Route 46 West, Suite 120  
Parsippany, NJ 07054  
Phone: (973) 852-1675  
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[jreiser@dezaolaw.com](mailto:jreiser@dezaolaw.com)

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**From:** Schwartz, Joseph [<mailto:JSCHWARTZ@RIKER.com>]  
**Sent:** Thursday, September 19, 2019 4:35 PM  
**To:** Jessica Reiser <[jreiser@dezaolaw.com](mailto:jreiser@dezaolaw.com)>; Reem Ishak <[reem@dezaolaw.com](mailto:reem@dezaolaw.com)>; 'Pasquale Suriano' <[psuriano@edprop.com](mailto:psuriano@edprop.com)>  
**Cc:** Victoria Morrison <[Victoriam@edprop.com](mailto:Victoriam@edprop.com)>; 'bel3con@gmail.com'

<bel3con@gmail.com>  
**Subject:** RE: Ironside Project

Jessica,

Did you receive a response from Hollister's counsel? You need Hollister's consent or court approval.

Joe

<image009.png>

Joseph L. Schwartz | Chair, Bankruptcy & Reorganization  
Riker Danzig Scherer Hyland & Perretti LLP  
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**From:** Jessica Reiser [<mailto:jreiser@dezaolaw.com>]  
**Sent:** Thursday, September 19, 2019 4:31 PM  
**To:** Schwartz, Joseph; Reem Ishak; 'Pasquale Suriano'  
**Cc:** Victoria Morrison; 'bel3con@gmail.com'  
**Subject:** RE: Ironside Project  
**Importance:** High

Mr. Schwartz:

Please see attached letter submitted to Hollister's attorney. Kindly advise when my client is able to pick up his equipment. Our client's need your permission to enter the premises.

If you have any questions, please do not hesitate to contact me.

Thank you,

**Jessica Reiser, Paralegal**  
*Law Offices of James C. DeZao, P.A.*  
322 Route 46 West, Suite 120  
Parsippany, NJ 07054  
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**From:** Schwartz, Joseph [<mailto:JSCHWARTZ@RIKER.com>]  
**Sent:** Friday, September 13, 2019 4:52 PM  
**To:** Reem Ishak <[reem@dezaolaw.com](mailto:reem@dezaolaw.com)>; Jessica Reiser <[jreiser@dezaolaw.com](mailto:jreiser@dezaolaw.com)>; 'Pasquale Suriano' <[psuriano@edprop.com](mailto:psuriano@edprop.com)>  
**Cc:** Victoria Morrison <[VictoriaM@edprop.com](mailto:VictoriaM@edprop.com)>; 'bel3con@gmail.com' <[bel3con@gmail.com](mailto:bel3con@gmail.com)>  
**Subject:** RE: Ironside Project

Again, I cannot give you advice, as I have no idea as to whether these tools/equipment belong to your client or to Hollister, or whether Hollister could assert some type of claim or interest in the tools/equipment. If Hollister can assert some type of claim or interest, your client cannot simply pick up the tools/equipment.

<image010.png>

Joseph L. Schwartz | Chair, Bankruptcy & Reorganization  
Riker Danzig Scherer Hyland & Perretti LLP  
Headquarters Plaza | One Speedwell Avenue | Morristown, NJ 07962-1981  
t: 973.451.8506 | f: 973.451.8727 | [JSCHWARTZ@RIKER.com](mailto:JSCHWARTZ@RIKER.com) | [www.riker.com](http://www.riker.com)

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**From:** Reem Ishak [<mailto:reem@dezaolaw.com>]  
**Sent:** Friday, September 13, 2019 3:32 PM  
**To:** Schwartz, Joseph; Jessica Reiser; 'Pasquale Suriano'  
**Cc:** Victoria Morrison; 'bel3con@gmail.com'  
**Subject:** RE: Ironside Project

Dear Mr. Schwartz,

Please see below our client's list of equipment that is still on the job site.

2--Job site Gang boxes full of power tools  
8--96" Aluminum Scaffold Planks  
2-- Blue Scaffold outriggers with wheels  
4-- 6' Werner rolling scaffolds

2--Rolling drywall carts

Please advise if he can pick these items up at his earliest convenience.

Kind regards,

*Reem Ishak  
Paralegal*

**The Law Offices of James C. DeZao, P.A.**

322 Route 46 West, Suite 120  
Parsippany, New Jersey 07054  
Phone (973) 808-8900, ext. 226  
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**From:** Schwartz, Joseph [<mailto:JSCHWARTZ@RIKER.com>]  
**Sent:** Friday, September 13, 2019 12:44 PM  
**To:** Jessica Reiser <[jreiser@dezaolaw.com](mailto:jreiser@dezaolaw.com)>; 'Pasquale Suriano' <[psuriano@edprop.com](mailto:psuriano@edprop.com)>  
**Cc:** Reem Ishak <[reem@dezaolaw.com](mailto:reem@dezaolaw.com)>; Victoria Morrison <[VictoriaM@edprop.com](mailto:VictoriaM@edprop.com)>  
**Subject:** RE: Ironside Project

Jessica,

In furtherance of our discussion, please see the attached motion, which is scheduled to be heard by the Bankruptcy Court on Monday at 10:00. I am not sure what it is exactly that your client wants to pick up from the construction project site, but to the extent the tools, etc. can in any way be viewed as Hollister's property, your client may be in violation of the order that will presumably entered as a result of the attached motion. If the tools, etc. are not Hollister's property, your client probably would not be in violation of the order.

Joe

<image009.png>

Joseph L. Schwartz | Chair, Bankruptcy & Reorganization  
Riker Danzig Scherer Hyland & Perretti LLP  
Headquarters Plaza | One Speedwell Avenue | Morristown, NJ 07962-1981  
t: 973.451.8506 | f: 973.451.8727 | [JSCHWARTZ@RIKER.com](mailto:JSCHWARTZ@RIKER.com) | [www.riker.com](http://www.riker.com)

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**From:** Jessica Reiser [<mailto:jreiser@dezaolaw.com>]  
**Sent:** Friday, September 13, 2019 11:56 AM  
**To:** 'Pasquale Suriano'  
**Cc:** Reem Ishak; Victoria Morrison; Schwartz, Joseph  
**Subject:** RE: Ironside Project

Thank you.

If you have any questions, please do not hesitate to contact me.

Thank you,

**Jessica Reiser, Paralegal**  
*Law Offices of James C. DeZao, P.A.*  
322 Route 46 West, Suite 120  
Parsippany, NJ 07054  
Phone: (973) 852-1675  
Fax: (973) 308-8933  
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**From:** Pasquale Suriano [<mailto:psuriano@edprop.com>]  
**Sent:** Friday, September 13, 2019 11:52 AM  
**To:** Jessica Reiser <[jreiser@dezaolaw.com](mailto:jreiser@dezaolaw.com)>  
**Cc:** Reem Ishak <[reem@dezaolaw.com](mailto:reem@dezaolaw.com)>; Victoria Morrison <[VictoriaM@edprop.com](mailto:VictoriaM@edprop.com)>; [jschwartz@riker.com](mailto:jschwartz@riker.com)  
**Subject:** RE: Ironside Project

Jessica,  
Please find the "v" card for our attorney, Joe Schwatz.  
Thank you.

**Pasquale Suriano | Executive Vice President of Engineering & Construction**  
Edison Properties | 110 Edison Place – Suite 300 | Newark, NJ  
07102  
Direct (973) 849-2613  
<image011.jpg>

**From:** Jessica Reiser <[jreiser@dezaolaw.com](mailto:jreiser@dezaolaw.com)>  
**Sent:** Friday, September 13, 2019 11:49 AM  
**To:** Pasquale Suriano <[psuriano@edprop.com](mailto:psuriano@edprop.com)>  
**Cc:** Reem Ishak <[reem@dezaolaw.com](mailto:reem@dezaolaw.com)>  
**Subject:** Ironside Project

Mr. Suriano:

Kindly provide me with your counsel's information.

If you have any questions, please do not hesitate to contact me.

Thank you,

*Jessica Reiser, Paralegal*  
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